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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/506,883

03/23/2005

Jean-Marc Tridon

0579-1055

6690

466

7590

03/04/2009

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EXAMINER

VARGOT, MATHIEU D

ART UNIT

PAPER NUMBER

1791

MAIL DATE

DELIVERY MODE

03/04/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/506,883 | Applicant(s) TRIDON ET AL. | |
| | Examiner Mathieu D. Vargot | Art Unit 1791 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29-40 is/are allowed.
- 6) ☒ Claim(s) 1-4, 9-28, 41 and 43-55 is/are rejected.
- 7) ☒ Claim(s) 5-8 and 42 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. Claims 29-40 are allowed.

2. Claims 5-8 and 42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 9-17, 25, 41 and 43-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slyk in view of Matos et al essentially for reasons of record noting the following.

Applicant has amended independent claims 1 (the method) and 41 (the apparatus/device) and submits that these claims now call for applying the force to the molds prior to filling and then removing the force after the filling and before the polymerizing of the liquid material. While the claims do call for the former, it is believed that such was disclosed or rendered obvious in Slyk. However, it is respectfully submitted that the latter recitation—of removing the force prior before polymerizing—has not been set forth with any specificity. Indeed, the claims merely call for releasing the force at some point after the filling, and not necessarily before the polymerization of the liquid material. Also, it should be noted that the apparatus claims would be capable of such an operation, so even a positive recitation of removing the force before polymerizing would not render claims 41 and 43-55 allowable. Further, it is not really

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clear that such a recitation would render the method claims patentable. It would appear that when the molds of Slyk are compressed by the spring, or when the molds of Matos et al are compressed, sufficient suction would exist between the molds to ensure that they stay together regardless of whether the force is removed or not. Ie, the applied references keep the force on the molds so that shrinkage can be accommodated. If one of ordinary skill in the art were to be unconcerned about shrinkage of the liquid material, it would have been obvious to have removed the force in the method (and/or the apparatus) as such would have been unnecessary. Ie, there no novel or particularly different quality about the instant molds and gasket that allow the instant molds to stay in place via a suction effect that the prior art molds and gasket would not have exhibited themselves.

4.Claims 2-4, 18-24, 26-28 and 49-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slyk in view of Matos et al and Sarofeen essentially for reasons of record as set forth in paragraph 5 of the previous action and paragraph 3, supra.

5.Applicant's arguments filed November 17, 2008 have been fully considered but they are not persuasive. Applicant submits that the method and apparatus claims should be allowed since they define over the art applied by calling for a release of the force before polymerizing. However, such is not persuasive for reasons already set forth in paragraph 3, supra. First, the instant claims are not so limited. Second, it is not clear that even a positive recitation in the method of such would define over the prior art for reasons already set forth. Certainly, the prior art apparatus is capable of operating

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in such a manner. The relationship of the filling hole and plug—as set forth in instant claims 5 and 42—appears to be the patentable subject matter in the claims and these claims are objected to, being allowable if placed in independent form.

6.THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7.Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson, can be reached on 571 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot
March 2, 2009

/Mathieu D. Vargot/
Primary Examiner, Art Unit 1791